

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**GABRIEL CHEMICALS, L.L.C.
AI # 31514**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

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* **Enforcement Tracking No.**
* **AE-PP-03-0323**
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SETTLEMENT

The following Settlement is hereby agreed to between Gabriel Chemicals, L.L.C. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who owns and/or operates a Chlorosulfonic Acid (CSA) Plant facility located in Geismar, Ascension Parish, Louisiana ("the Facility"). The CSA plant is owned by Gabriel Chemicals and operated by PCS Nitrogen Fertilizer, L.P. The CSA plant is a minor source of air emissions, but is operated by an adjacent major source; therefore, the plant is subject to Part 70 permitting requirements. The facility currently operates under Title V Permit No. 0180-00076-V0 issued on October 14, 2002.

II

On November 19, 2003, the Department issued a Notice of Potential Penalty, Enforcement No. AE-PP-03-0323, which was based upon the following findings of fact:

- A. The Department received the Respondent's revised semiannual monitoring report for the period encompassing October 14, 2002, through December 31, 2002, on September 24, 2003. The original report was submitted on September 19, 2003. The late submittal of the semiannual monitoring report is a violation of Part 70 General Condition K of Title V Permit No. 0180-00076-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- B. The Department received the Respondent's revised annual compliance certification for the 2002 calendar year on September 24, 2003. The original report was submitted on September 19, 2003. The Respondent failed to submit the annual compliance certification to the Department by March 31, 2003. The late submittal of the annual compliance certification is a violation of Part 70 General Condition M of Title V Permit No. 0180-00076-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

III

On or about December 5, 2003, an enforcement meeting was held to discuss the issues mentioned in Parts A and B above. In the meeting, the Respondent disclosed the following violations of the Title V Permit and the Respondent's previous operating permit, Air Permit No. 2537.

- A. The Respondent submitted the Emissions Inventory (EIS) Reports for the 1999 through 2002 calendar years on November 19, 2003. The Respondent failed to submit the EIS reports to the Department by March 31 of each year from 2000 through 2003. Each late submittal of the EIS report is a violation of LAC 33:III.919.E and Section 2057(A)(2) of the Act.
- B. The Respondent submitted Toxic Emissions Data Inventory (TEDI) reports for the 1999 through 2002 calendar years on November 19, 2003. The Respondent failed to submit the TEDI reports by July 1 of each year from 2000 through 2003. Each late submittal of the TEDI report is a violation of LAC 33:III.5107.A.2 and Section 2057(A)(2) of the Act.
- C. The Respondent failed to submit the State Only Specific Condition Report listing the hours the scrubber operated out of the ranges specified for the period of October 14, 2002 through December 31, 2002, by February 15, 2003. The report was submitted to the Department on November 19,

2003. The late submittal of the Specific Condition Report is a violation of the State Only Specific Condition of Title V Permit No. 0180-00076-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- D. The Respondent failed to operate the Vent Scrubber, Emission Point 98-2, using a three (3) percent to five (5) percent caustic solution as required by the State Only Specific Condition. The failure to operate within the range set forth in the permit is a violation of the State Only Specific Condition of Title V Permit No. 0180-00076-V0, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FIVE THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$5,900.00), of which FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole

purpose of determining Respondent's compliance history.

VII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ascension Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XI

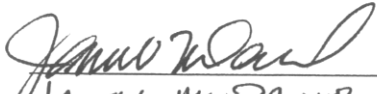
In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

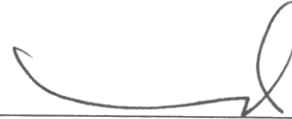
Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

GABRIEL CHEMICALS, L.L.C.


James W. McDaniel

BY:




(Signature)



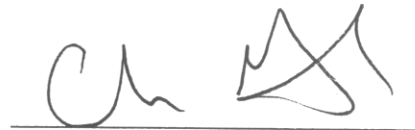
(Printed)

TITLE:




Jessica Tonlinson

THUS DONE AND SIGNED in duplicate original before me this 9th day of January, 20 04, at Baton Rouge, LA.

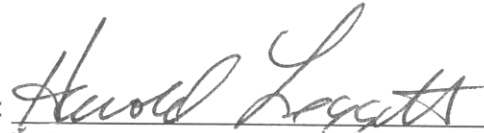

NOTARY PUBLIC
Charles M. Gordon

STATE OF LOUISIANA

Mike D. McDaniel, Ph.D., Secretary

Department of Environmental Quality

BY:



Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of July, 2004, at Baton Rouge, Louisiana.


NOTARY PUBLIC

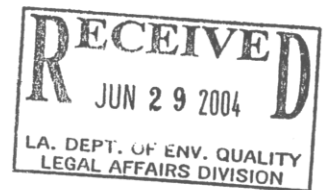
Approved:


R. Bruce Hammatt, Assistant Secretary



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005



June 23, 2004

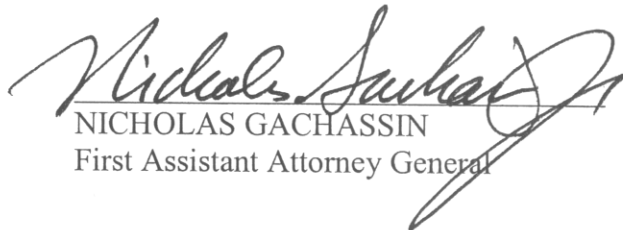
Mike D. McDaniel, Secretary
La. Department of Environmental Quality
Office of the Secretary
P.O. Box 4301
Baton Rouge, LA 70821-4301

Re: Review of DEQ Settlement;
Gabriel Chemicals, LLC
AE-PP-03-0323

Dear Secretary McDaniel:

Pursuant to the authority granted to me by R.S. 30:2050.7(E)(2)(a), I approve the above referenced settlement.

Sincerely,


NICHOLAS GACHASSIN
First Assistant Attorney General

NG/cbw